

SENATE BILL No. 340

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-7-14-39.

Synopsis: TIF district base assessed value. Provides that, in the case of assessed value increases attributable to the application of an abatement schedule that was adopted before the allocation area was established, the assessed value increases attributable to the application of the abatement schedule must be included in the base assessed value of the allocation area, and may not be included in the incremental assessed value of the allocation area. Provides that, in the case of assessed value increases attributable to the application of an abatement schedule that was adopted on or after the allocation area was established, assessed value increases attributable to the application of an abatement schedule may be included in the incremental assessed value of the allocation area, but only to the extent that the assessed value increase is a direct result of funding or expenditures from the allocation area as determined by the fiscal body of the unit that established the redevelopment commission. Provides that the assessed value increases that are not allocated to the incremental assessed value of the allocation area must be included in the base assessed value of the allocation area. (Under current law, assessed value increases attributable to the application of an abatement schedule may not be included in the base assessed value of an allocation area regardless of when the abatement schedule was adopted.)

Effective: July 1, 2016.

Walker

January 7, 2016, read first time and referred to Committee on Tax & Fiscal Policy.



Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 340

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-7-14-39, AS AMENDED BY P.L.87-2015,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 39. (a) As used in this section:
4 "Allocation area" means that part of a redevelopment project area
5 to which an allocation provision of a declaratory resolution adopted
6 under section 15 of this chapter refers for purposes of distribution and
7 allocation of property taxes.
8 "Base assessed value" means the following:
9 (1) If an allocation provision is adopted after June 30, 1995, in a
10 declaratory resolution or an amendment to a declaratory
11 resolution establishing an economic development area:
12 (A) the net assessed value of all the property as finally
13 determined for the assessment date immediately preceding the
14 effective date of the allocation provision of the declaratory
15 resolution, as adjusted under subsection (h); plus
16 (B) to the extent that it is not included in clause (A), the net
17 assessed value of property that is assessed as residential



- 1 property under the rules of the department of local government
- 2 finance, as finally determined for any assessment date after the
- 3 effective date of the allocation provision.
- 4 (2) If an allocation provision is adopted after June 30, 1997, in a
- 5 declaratory resolution or an amendment to a declaratory
- 6 resolution establishing a redevelopment project area:
- 7 (A) the net assessed value of all the property as finally
- 8 determined for the assessment date immediately preceding the
- 9 effective date of the allocation provision of the declaratory
- 10 resolution, as adjusted under subsection (h); plus
- 11 (B) to the extent that it is not included in clause (A), the net
- 12 assessed value of property that is assessed as residential
- 13 property under the rules of the department of local government
- 14 finance, as finally determined for any assessment date after the
- 15 effective date of the allocation provision.
- 16 (3) If:
- 17 (A) an allocation provision adopted before June 30, 1995, in
- 18 a declaratory resolution or an amendment to a declaratory
- 19 resolution establishing a redevelopment project area expires
- 20 after June 30, 1997; and
- 21 (B) after June 30, 1997, a new allocation provision is included
- 22 in an amendment to the declaratory resolution;
- 23 the net assessed value of all the property as finally determined for
- 24 the assessment date immediately preceding the effective date of
- 25 the allocation provision adopted after June 30, 1997, as adjusted
- 26 under subsection (h).
- 27 (4) Except as provided in subdivision (5), for all other allocation
- 28 areas, the net assessed value of all the property as finally
- 29 determined for the assessment date immediately preceding the
- 30 effective date of the allocation provision of the declaratory
- 31 resolution, as adjusted under subsection (h).
- 32 (5) If an allocation area established in an economic development
- 33 area before July 1, 1995, is expanded after June 30, 1995, the
- 34 definition in subdivision (1) applies to the expanded part of the
- 35 area added after June 30, 1995.
- 36 (6) If an allocation area established in a redevelopment project
- 37 area before July 1, 1997, is expanded after June 30, 1997, the
- 38 definition in subdivision (2) applies to the expanded part of the
- 39 area added after June 30, 1997.
- 40 Except as provided in section 39.3 of this chapter, "property taxes"
- 41 means taxes imposed under IC 6-1.1 on real property. However, upon
- 42 approval by a resolution of the redevelopment commission adopted



1 before June 1, 1987, "property taxes" also includes taxes imposed
2 under IC 6-1.1 on depreciable personal property. If a redevelopment
3 commission adopted before June 1, 1987, a resolution to include within
4 the definition of property taxes, taxes imposed under IC 6-1.1 on
5 depreciable personal property that has a useful life in excess of eight
6 (8) years, the commission may by resolution determine the percentage
7 of taxes imposed under IC 6-1.1 on all depreciable personal property
8 that will be included within the definition of property taxes. However,
9 the percentage included must not exceed twenty-five percent (25%) of
10 the taxes imposed under IC 6-1.1 on all depreciable personal property.

11 (b) A declaratory resolution adopted under section 15 of this chapter
12 on or before the allocation deadline determined under subsection ~~(j)~~ **(k)**
13 may include a provision with respect to the allocation and distribution
14 of property taxes for the purposes and in the manner provided in this
15 section. A declaratory resolution previously adopted may include an
16 allocation provision by the amendment of that declaratory resolution on
17 or before the allocation deadline determined under subsection ~~(j)~~ **(k)** in
18 accordance with the procedures required for its original adoption. A
19 declaratory resolution or amendment that establishes an allocation
20 provision must include a specific finding of fact, supported by
21 evidence, that the adoption of the allocation provision will result in
22 new property taxes in the area that would not have been generated but
23 for the adoption of the allocation provision. For an allocation area
24 established before July 1, 1995, the expiration date of any allocation
25 provisions for the allocation area is June 30, 2025, or the last date of
26 any obligations that are outstanding on July 1, 2015, whichever is later.
27 A declaratory resolution or an amendment that establishes an allocation
28 provision after June 30, 1995, must specify an expiration date for the
29 allocation provision. For an allocation area established before July 1,
30 2008, the expiration date may not be more than thirty (30) years after
31 the date on which the allocation provision is established. For an
32 allocation area established after June 30, 2008, the expiration date may
33 not be more than twenty-five (25) years after the date on which the first
34 obligation was incurred to pay principal and interest on bonds or lease
35 rentals on leases payable from tax increment revenues. However, with
36 respect to bonds or other obligations that were issued before July 1,
37 2008, if any of the bonds or other obligations that were scheduled when
38 issued to mature before the specified expiration date and that are
39 payable only from allocated tax proceeds with respect to the allocation
40 area remain outstanding as of the expiration date, the allocation
41 provision does not expire until all of the bonds or other obligations are
42 no longer outstanding. The allocation provision may apply to all or part



1 of the redevelopment project area. The allocation provision must
 2 require that any property taxes subsequently levied by or for the benefit
 3 of any public body entitled to a distribution of property taxes on taxable
 4 property in the allocation area be allocated and distributed as follows:

5 (1) Except as otherwise provided in this section, the proceeds of
 6 the taxes attributable to the lesser of:

7 (A) the assessed value of the property for the assessment date
 8 with respect to which the allocation and distribution is made;

9 or

10 (B) the base assessed value;

11 shall be allocated to and, when collected, paid into the funds of
 12 the respective taxing units.

13 (2) The excess of the proceeds of the property taxes imposed for
 14 the assessment date with respect to which the allocation and
 15 distribution is made that are attributable to taxes imposed after
 16 being approved by the voters in a referendum or local public
 17 question conducted after April 30, 2010, not otherwise included
 18 in subdivision (1) shall be allocated to and, when collected, paid
 19 into the funds of the taxing unit for which the referendum or local
 20 public question was conducted.

21 (3) Except as otherwise provided in this section, property tax
 22 proceeds in excess of those described in subdivisions (1) and (2)
 23 shall be allocated to the redevelopment district and, when
 24 collected, paid into an allocation fund for that allocation area that
 25 may be used by the redevelopment district only to do one (1) or
 26 more of the following:

27 (A) Pay the principal of and interest on any obligations
 28 payable solely from allocated tax proceeds which are incurred
 29 by the redevelopment district for the purpose of financing or
 30 refinancing the redevelopment of that allocation area.

31 (B) Establish, augment, or restore the debt service reserve for
 32 bonds payable solely or in part from allocated tax proceeds in
 33 that allocation area.

34 (C) Pay the principal of and interest on bonds payable from
 35 allocated tax proceeds in that allocation area and from the
 36 special tax levied under section 27 of this chapter.

37 (D) Pay the principal of and interest on bonds issued by the
 38 unit to pay for local public improvements that are physically
 39 located in or physically connected to that allocation area.

40 (E) Pay premiums on the redemption before maturity of bonds
 41 payable solely or in part from allocated tax proceeds in that
 42 allocation area.



(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 25.2 of this chapter.

(G) Reimburse the unit for expenditures made by it for local public improvements (which include buildings, parking facilities, and other items described in section 25.1(a) of this chapter) that are physically located in or physically connected to that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility that is physically located in or physically connected to that allocation area under any lease entered into under IC 36-1-10.

(I) For property taxes first due and payable before January 1, 2009, pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the redevelopment commission. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) (before their repeal) that is attributable to the taxing district.

STEP TWO: Divide:

(i) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2 (before its repeal)) for that year as determined under IC 6-1.1-21-4 (before its repeal) that is attributable to the taxing district; by

(ii) the STEP ONE sum.

STEP THREE: Multiply:

(i) the STEP TWO quotient; times

(ii) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2 (before its repeal)) levied in the taxing district that have been allocated during that year to an allocation fund under this section.

If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under section 39.5 of this chapter (before its repeal) in the same year.



(J) Pay expenses incurred by the redevelopment commission for local public improvements that are in the allocation area or serving the allocation area. Public improvements include buildings, parking facilities, and other items described in section 25.1(a) of this chapter.

(K) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

(L) Pay the costs of carrying out an eligible efficiency project (as defined in IC 36-9-41-1.5) within the unit that established the redevelopment commission. However, property tax proceeds may be used under this clause to pay the costs of carrying out an eligible efficiency project only if those property tax proceeds exceed the amount necessary to do the following:

(i) Make, when due, any payments required under clauses (A) through (K), including any payments of principal and interest on bonds and other obligations payable under this subdivision, any payments of premiums under this subdivision on the redemption before maturity of bonds, and any payments on leases payable under this subdivision.

(ii) Make any reimbursements required under this subdivision.

(iii) Pay any expenses required under this subdivision.

(iv) Establish, augment, or restore any debt service reserve under this subdivision.

(M) Expend money and provide financial assistance as authorized in section 12.2(a)(27) of this chapter.

The allocation fund may not be used for operating expenses of the commission.

(4) Except as provided in subsection (g), before July 1 of each



year, the commission shall do the following:

(A) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to produce the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (3), plus the amount necessary for other purposes described in subdivision (3).

(B) Provide a written notice to the county auditor, the fiscal body of the county or municipality that established the department of redevelopment, the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area, and (in an electronic format) the department of local government finance. The notice must:

(i) state the amount, if any, of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1); or

(ii) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission. The commission may not authorize an allocation of assessed value to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (3) or lessors under section 25.3 of this chapter.

(C) If:

(i) the amount of excess assessed value determined by the commission is expected to generate more than two hundred percent (200%) of the amount of allocated tax proceeds necessary to make, when due, principal and interest payments on bonds described in subdivision (3); plus

(ii) the amount necessary for other purposes described in subdivision (3);

the commission shall submit to the legislative body of the unit its determination of the excess assessed value that the commission proposes to allocate to the respective taxing units



1 in the manner prescribed in subdivision (1). The legislative
 2 body of the unit may approve the commission's determination
 3 or modify the amount of the excess assessed value that will be
 4 allocated to the respective taxing units in the manner
 5 prescribed in subdivision (1).

6 (c) For the purpose of allocating taxes levied by or for any taxing
 7 unit or units, the assessed value of taxable property in a territory in the
 8 allocation area that is annexed by any taxing unit after the effective
 9 date of the allocation provision of the declaratory resolution is the
 10 lesser of:

- 11 (1) the assessed value of the property for the assessment date with
- 12 respect to which the allocation and distribution is made; or
- 13 (2) the base assessed value.

14 (d) Property tax proceeds allocable to the redevelopment district
 15 under subsection (b)(3) may, subject to subsection (b)(4), be
 16 irrevocably pledged by the redevelopment district for payment as set
 17 forth in subsection (b)(3).

18 (e) Notwithstanding any other law, each assessor shall, upon
 19 petition of the redevelopment commission, reassess the taxable
 20 property situated upon or in, or added to, the allocation area, effective
 21 on the next assessment date after the petition.

22 (f) Notwithstanding any other law, the assessed value of all taxable
 23 property in the allocation area, for purposes of tax limitation, property
 24 tax replacement, and formulation of the budget, tax rate, and tax levy
 25 for each political subdivision in which the property is located is the
 26 lesser of:

- 27 (1) the assessed value of the property as valued without regard to
- 28 this section; or
- 29 (2) the base assessed value.

30 (g) If any part of the allocation area is located in an enterprise zone
 31 created under IC 5-28-15, the unit that designated the allocation area
 32 shall create funds as specified in this subsection. A unit that has
 33 obligations, bonds, or leases payable from allocated tax proceeds under
 34 subsection (b)(3) shall establish an allocation fund for the purposes
 35 specified in subsection (b)(3) and a special zone fund. Such a unit
 36 shall, until the end of the enterprise zone phase out period, deposit each
 37 year in the special zone fund any amount in the allocation fund derived
 38 from property tax proceeds in excess of those described in subsection
 39 (b)(1) and (b)(2) from property located in the enterprise zone that
 40 exceeds the amount sufficient for the purposes specified in subsection
 41 (b)(3) for the year. The amount sufficient for purposes specified in
 42 subsection (b)(3) for the year shall be determined based on the pro rata



1 portion of such current property tax proceeds from the part of the
 2 enterprise zone that is within the allocation area as compared to all
 3 such current property tax proceeds derived from the allocation area. A
 4 unit that has no obligations, bonds, or leases payable from allocated tax
 5 proceeds under subsection (b)(3) shall establish a special zone fund
 6 and deposit all the property tax proceeds in excess of those described
 7 in subsection (b)(1) and (b)(2) in the fund derived from property tax
 8 proceeds in excess of those described in subsection (b)(1) and (b)(2)
 9 from property located in the enterprise zone. The unit that creates the
 10 special zone fund shall use the fund (based on the recommendations of
 11 the urban enterprise association) for programs in job training, job
 12 enrichment, and basic skill development that are designed to benefit
 13 residents and employers in the enterprise zone or other purposes
 14 specified in subsection (b)(3), except that where reference is made in
 15 subsection (b)(3) to allocation area it shall refer for purposes of
 16 payments from the special zone fund only to that part of the allocation
 17 area that is also located in the enterprise zone. Those programs shall
 18 reserve at least one-half (1/2) of their enrollment in any session for
 19 residents of the enterprise zone.

20 (h) The state board of accounts and department of local government
 21 finance shall make the rules and prescribe the forms and procedures
 22 that they consider expedient for the implementation of this chapter.
 23 After each general reassessment of real property in an area under
 24 IC 6-1.1-4-4 and after each reassessment in an area under a
 25 reassessment plan prepared under IC 6-1.1-4-4.2, the department of
 26 local government finance shall adjust the base assessed value one (1)
 27 time to neutralize any effect of the reassessment of the real property in
 28 the area on the property tax proceeds allocated to the redevelopment
 29 district under this section. After each annual adjustment under
 30 IC 6-1.1-4-4.5, the department of local government finance shall adjust
 31 the base assessed value one (1) time to neutralize any effect of the
 32 annual adjustment on the property tax proceeds allocated to the
 33 redevelopment district under this section. However, the adjustments
 34 under this subsection:

35 (1) may not include the effect of phasing in assessed value due to
 36 property tax abatements under IC 6-1.1-12.1 **that are described**
 37 **in subsection (j);**

38 (2) may not produce less property tax proceeds allocable to the
 39 redevelopment district under subsection (b)(3) than would
 40 otherwise have been received if the general reassessment, the
 41 reassessment under the reassessment plan, or the annual
 42 adjustment had not occurred; and



(3) may decrease base assessed value only to the extent that assessed values in the allocation area have been decreased due to annual adjustments or the reassessment under the reassessment plan.

~~Assessed value increases attributable to the application of an abatement schedule under IC 6-1.1-12.1 may not be included in the base assessed value of an allocation area.~~ The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) In the case of assessed value increases attributable to the application of an abatement schedule that was adopted by a designating body under IC 6-1.1-12.1 before the date on which the allocation area was established, the assessed value increases attributable to the application of the abatement schedule must be included in the base assessed value of the allocation area, and may not be included in the incremental assessed value of the allocation area.

(j) In the case of assessed value increases attributable to the application of an abatement schedule that was adopted by a designating body under IC 6-1.1-12.1 on or after the date on which the allocation area was established, assessed value increases attributable to the application of an abatement schedule under IC 6-1.1-12.1 may be included in the incremental assessed value of the allocation area, but only to the extent that the assessed value increase is a direct result of funding or expenditures from the allocation area as determined by the fiscal body of the unit that established the redevelopment commission. The assessed value increases under this section that are not allocated to the incremental assessed value of the allocation area must be included in the base assessed value of the allocation area.

(k) The allocation deadline referred to in subsection (b) is determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines



1 under subdivision (2); and
 2 (B) specifically designates a particular date as the final
 3 allocation deadline.
 4 SECTION 2. [EFFECTIVE JULY 1, 2016] **(a) IC 36-7-14-39, as**
 5 **amended by this act, applies to an assessment date (as defined in**
 6 **IC 6-1.1-1-2) occurring after July 1, 2016.**
 7 **(b) This SECTION expires July 1, 2018.**

